

House File 521 - Introduced

HOUSE FILE 521

BY STAED

A BILL FOR

1 An Act providing for animal feeding operations, including by
2 providing for the zoning of structures, the regulation of
3 structures and operations, providing for property taxes,
4 making penalties applicable, and including effective date
5 and retroactive applicability provisions.
6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 331.304A, subsection 2, Code 2019, is
2 amended to read as follows:

3 2. a. A county shall not adopt or enforce county
4 legislation regulating a condition or activity occurring
5 on land used for the production, care, feeding, or housing
6 of animals unless the regulation of the production, care,
7 feeding, or housing of animals is expressly authorized by
8 state law. County legislation adopted in violation of this
9 section is void and unenforceable and any enforcement activity
10 conducted in violation of this section is void. A condition
11 or activity occurring on land used for the production, care,
12 feeding, or housing of animals includes but is not limited to
13 the construction, operation, or management of an animal feeding
14 operation, an animal feeding operation structure, or aerobic
15 structure, and to the storage, handling, or application of
16 manure or egg washwater.

17 b. Paragraph "a" does not apply to a confinement feeding
18 operations siting ordinance as provided in section 459.305A.

19 Sec. 2. Section 335.2, Code 2019, is amended to read as
20 follows:

21 **335.2 Farms exempt.**

22 1. Except to the extent required to implement section
23 335.27, no ordinance adopted under this chapter applies to
24 land, farm houses, farm barns, farm outbuildings or other
25 buildings or structures which are primarily adapted, by reason
26 of nature and area, for use for agricultural purposes, while
27 so used. However, the ordinances may apply to any structure,
28 building, dam, obstruction, deposit or excavation in or on the
29 flood plains of any river or stream.

30 2. Subsection 1 does not apply to a confinement feeding
31 operations siting ordinance as provided in section 459.305A.

32 Sec. 3. Section 427.1, subsection 19, paragraph e,
33 subparagraph (1), Code 2019, is amended to read as follows:

34 (1) For the purposes of this subsection, ~~"pollution-control~~
35 ~~property"~~:

1 (a) "Pollution-control property" means personal property or
 2 improvements to real property, or any portion thereof, used
 3 primarily to control or abate pollution of any air or water of
 4 this state or used primarily to enhance the quality of any air
 5 or water of this state and "recycling property" means personal
 6 property or improvements to real property or any portion of
 7 the property, used primarily in the manufacturing process and
 8 resulting directly in the conversion of waste glass, waste
 9 plastic, wastepaper products, waste paperboard, or waste wood
 10 products into new raw materials or products composed primarily
 11 of recycled material. In the event such property shall also
 12 serve other purposes or uses of productive benefit to the owner
 13 of the property, only such portion of the assessed valuation
 14 thereof as may reasonably be calculated to be necessary for
 15 and devoted to the control or abatement of pollution, to the
 16 enhancement of the quality of the air or water of this state,
 17 or for recycling shall be exempt from taxation under this
 18 subsection.

19 (b) "Pollution-control property" or "recycling property"
 20 does not include property used for purposes related to the
 21 care and feeding of livestock as defined in section 169C.1,
 22 except for property which is eligible for a family farm tax
 23 credit as provided in chapter 425A. The exemption calculated
 24 for pollution-control property or recycling property used for
 25 the purpose of care and feeding of livestock and which is
 26 eligible for a family farm tax credit is limited to the first
 27 one hundred thousand dollars of the property's assessed value.

28 Sec. 4. Section 459.102, subsection 14, Code 2019, is
 29 amended to read as follows:

30 14. "Confinement feeding operation" means an animal feeding
 31 operation in which animals are confined to areas which are
 32 totally or partially roofed.

33 Sec. 5. Section 459.102, Code 2019, is amended by adding the
 34 following new subsections:

35 NEW SUBSECTION. 17A. "Contract livestock facility" means

1 the same as defined in section 202.1.

2 NEW SUBSECTION. 17B. "*Contract producer*" means the same as
3 defined in section 202.1.

4 NEW SUBSECTION. 17C. "*Contractor*" means the same as defined
5 in section 202.1.

6 NEW SUBSECTION. 29A. "*Formed egg washwater storage*
7 *structure*" means an egg washwater storage structure that has
8 walls and a floor constructed of concrete, concrete block,
9 wood, steel, or similar materials.

10 NEW SUBSECTION. 42A. "*Production contract*" means the same
11 as defined in section 202.1.

12 NEW SUBSECTION. 57A. "*Unformed egg washwater storage*
13 *structure*" means an egg washwater storage structure other than
14 a formed egg washwater storage structure.

15 Sec. 6. Section 459.103, subsection 2, Code 2019, is amended
16 to read as follows:

17 2. Any provision referring generally to compliance with
18 the requirements of [this chapter](#) as applied to animal feeding
19 operations also includes compliance with requirements in
20 rules adopted by the commission pursuant to [this section](#),
21 orders issued by the department as authorized under this
22 chapter, and the terms and conditions applicable to licenses,
23 certifications, permits, or manure management plans required
24 under [subchapter III](#). ~~However, for purposes of approving~~
25 ~~or disapproving an application for a construction permit as~~
26 ~~provided in [section 459.304](#), conditions for the approval of an~~
27 ~~application based on results produced by a master matrix are~~
28 ~~not requirements of [this chapter](#) until the department approves~~
29 ~~or disapproves an application based on those results.~~

30 Sec. 7. NEW SECTION. 459.104 **Confinement feeding operations**
31 **— impaired waters.**

32 1. As used in this section, unless the context otherwise
33 requires:

34 a. "*Section 303(d) list*" means the same as defined in
35 section 455B.171.

1 *b. "Subwatershed"* means the same as defined in section
2 466B.2.

3 2. *a.* A person shall not construct, including expand, a
4 confinement feeding operation structure, if the confinement
5 feeding operation structure would be located in a subwatershed
6 that drains into a water body or water segment that has been
7 placed on the department's section 303(d) list, regardless of
8 whether a total maximum daily load for that water body or water
9 segment has been developed.

10 *b.* The department shall not file or approve an application
11 for a permit to construct, including expand, a confinement
12 feeding operation structure, if the person could not construct
13 the confinement feeding operation structure under paragraph
14 "a".

15 3. Subsection 2 does not apply to prevent a person from
16 constructing, including expanding, a confinement feeding
17 operation structure as otherwise provided in this subchapter,
18 if the confinement feeding operation structure is located in a
19 subwatershed that drains into a water body or water segment,
20 and the department does all of the following:

21 *a.* Removes the water body or water segment from the section
22 303(d) list.

23 *b.* Determines that the water body or water segment is
24 classified for a primary contact recreational use as provided
25 in 567 IAC 61.3.

26 4. Nothing in this section shall prohibit a person from
27 completing construction, including expansion, of a confinement
28 feeding operation structure, if prior to the effective date
29 of this Act, the person has begun construction, including
30 expansion, of the confinement feeding operation structure as
31 otherwise allowed under this chapter.

32 Sec. 8. NEW SECTION. 459.201A Reporting requirement —
33 animals maintained at a confinement feeding operation.

34 The department may require the owner or operator of a
35 confinement feeding operation to submit one or more animals

1 confined reports that contain information regarding the number
2 of animals maintained at the confinement feeding operation in a
3 manner and during a time period that the department determines
4 is relevant. The report shall present the information in
5 a manner that converts the number of animals maintained to
6 equivalent animal units.

7 Sec. 9. NEW SECTION. **459.301A Reporting requirement —**
8 **animals maintained at a confinement feeding operation.**

9 The department may require the owner or operator of a
10 confinement feeding operation to submit one or more animals
11 confined reports that contain information regarding the number
12 of animals maintained at the confinement feeding operation in a
13 manner and during a time period that the department determines
14 is relevant. The report shall present the information in
15 a manner that converts the number of animals maintained to
16 equivalent animal units.

17 Sec. 10. Section 459.303, subsection 1, paragraph a, Code
18 2019, is amended by adding the following new subparagraph:

19 NEW SUBPARAGRAPH. (3) A confinement feeding operation
20 structure if constructed or expanded would exist within an area
21 of the state which the department classifies as prone to the
22 formation of sinkholes.

23 Sec. 11. Section 459.303, subsection 2, Code 2019, is
24 amended by striking the subsection.

25 Sec. 12. Section 459.303, subsection 3, paragraph b, Code
26 2019, is amended to read as follows:

27 **b.** A manure management plan as provided in [section 459.312](#)
28 ~~and, a~~ manure management plan filing fee as provided in section
29 459.400, and evidence that a surety bond has been furnished to
30 the department as provided in section 459.312.

31 Sec. 13. Section 459.303, subsection 3, Code 2019, is
32 amended by adding the following new paragraphs:

33 NEW PARAGRAPH. **e.** A statement acknowledging or denying
34 that the applicant and a contractor are parties to a production
35 contract, or are negotiating to be parties to a production

1 contract. If the statement is an acknowledgment, the
2 application shall include all of the following:

3 (1) The name and mailing address of the contractor.

4 (2) Whether the applicant is a contract producer or is
5 negotiating to become a contract producer.

6 (3) Whether the confinement feeding operation structure if
7 constructed would be part of a confinement feeding operation
8 that may become a contract livestock facility.

9 NEW PARAGRAPH. *f.* A brief summary of the application
10 completed on a form prepared by the department in consultation
11 with the Iowa state association of counties. The completed
12 form shall at least include all of the following:

13 (1) The name and mailing address of the applicant.

14 (2) The type of animal to be maintained at the confinement
15 feeding operation classified by animal unit, if all proposed
16 confinement feeding operation structures were constructed.

17 (3) The maximum number of animals and the maximum number
18 of animal units to be maintained at the confinement feeding
19 operation, if all proposed confinement feeding operation
20 structures were constructed.

21 (4) A brief description of the location, type, and size of
22 each confinement feeding operation structure proposed to be
23 constructed.

24 NEW PARAGRAPH. *g.* A list containing the name and last known
25 mailing address of each person holding legal title to land
26 located within two miles of the confinement feeding operation
27 structure proposed to be constructed. The names and mailing
28 addresses may be the same as those shown in the records of
29 the county auditor of the county located within two miles of
30 the confinement feeding operation structure proposed to be
31 constructed.

32 Sec. 14. Section 459.303, subsection 4, Code 2019, is
33 amended by striking the subsection.

34 Sec. 15. Section 459.303, Code 2019, is amended by adding
35 the following new subsection:

1 NEW SUBSECTION. 4A. If the application is for a permit
2 to expand a confinement feeding operation, the department may
3 require the applicant to submit an animals confined report as
4 described in section 459.301A.

5 Sec. 16. Section 459.303, subsection 7, Code 2018, is
6 amended by adding the following new paragraph:

7 NEW PARAGRAPH. c. The department shall not issue a
8 permit to a person under this section if a surety bond
9 furnished to the department under section 459.312 has
10 expired, been canceled, been suspended, or been revoked.
11 This paragraph applies to a permit for the construction of a
12 confinement feeding operation structure regardless of whether
13 the confinement feeding operation structure is part of a
14 confinement feeding operation described in the bond.

15 Sec. 17. NEW SECTION. 459.305A County control of siting.

16 1. A county may adopt a confinement feeding operations
17 siting ordinance. The purpose of the ordinance is to allow
18 the county board of supervisors to approve or disapprove
19 the location of any construction, including expansion, of a
20 confinement feeding operation within the county.

21 2. A person shall not construct a confinement feeding
22 operation in a county that has adopted a confinement feeding
23 operations siting ordinance until the county board of
24 supervisors has approved the location of the confinement
25 feeding operation in a manner and according to procedures
26 required in the ordinance.

27 a. The county board of supervisors may subject its
28 approval to conditions for the construction or operation of
29 the confinement feeding operation or the application of manure
30 originating from the confinement feeding operation.

31 b. A person required to be issued a permit by the department
32 for the construction of a confinement feeding operation as
33 provided in section 459.303 must be issued such permit prior to
34 obtaining approval by the county board of supervisors.

35 c. A county board of supervisors may base its approval or

1 disapproval on factors other than factors considered by the
2 department when approving or disapproving an application to
3 construct the confinement feeding operation.

4 3. A county may adopt county legislation necessary to
5 effectuate the purposes of this section notwithstanding section
6 331.304A or 335.2.

7 Sec. 18. Section 459.307, subsection 4, Code 2019, is
8 amended by striking the subsection.

9 Sec. 19. Section 459.308, subsection 3, Code 2019, is
10 amended by striking the subsection.

11 Sec. 20. NEW SECTION. **459.309 Manure storage structures —**
12 **notice of structural failure.**

13 1. The owner or operator of a confinement feeding operation
14 shall notify the department of the structural failure of a
15 manure storage structure that is part of the confinement
16 feeding operation, regardless of whether it is a failure in
17 design or construction or whether such failure may result in a
18 violation of section 459.311.

19 2. The owner or operator of a confinement feeding operation
20 shall notify the department of a probable immediate structural
21 failure of a manure storage structure that is part of a
22 confinement feeding operation, as described in subsection 1.
23 The determination of a probable immediate structural failure
24 shall be based on factors established by the department which
25 may include any of the following:

26 a. An observation by the owner or operator of the
27 confinement feeding operation that the integrity of the
28 structure has been compromised.

29 b. An observation by the owner or operator of the
30 confinement feeding operation that a discharge from the manure
31 storage structure appears to have occurred.

32 c. A verbal or written report made to the owner or operator
33 of the confinement feeding operation by a professional engineer
34 based on the professional engineer's inspection of the manure
35 storage structure.

1 3. The department shall adopt rules providing notice
2 procedures, including when and how the owner or operator of
3 the confinement feeding operation is required to contact the
4 department.

5 a. The department may provide for different procedures based
6 on factors established by the department that quantify the
7 level of threat to water quality resulting from a structural
8 failure as described in subsection 1 or a probable immediate
9 structural failure as described in subsection 2. The factors
10 may include but are not limited to any of the following:

11 (1) The type and size of the confinement feeding operation
12 structure.

13 (2) The proximity of any discharge or probable immediate
14 discharge to the groundwater, a major water source, or a
15 high-quality water source.

16 (3) Whether the confinement feeding operation structure is
17 located on karst terrain.

18 b. The department may provide for different procedures
19 based on whether the structural failure has caused or may cause
20 injury or suffering to an animal maintained in a confinement
21 building that is associated with a manure storage structure.

22 Sec. 21. NEW SECTION. **459.309 Construction and expansion of**
23 **animal feeding operation structures — karst terrain or terrain**
24 **that drains into a known sinkhole.**

25 1. A person shall not construct or expand an animal feeding
26 operation structure on karst terrain or terrain that drains
27 into a known sinkhole.

28 2. Subsection 1 does not apply to any of the following:

29 a. The construction of a formed manure storage structure
30 that is constructed to replace an unformed manure storage
31 structure. The formed manure storage structure must
32 be constructed in a manner that complies with upgraded
33 construction design standards necessary to ensure that the
34 structure does not pollute groundwater sources. However, the
35 capacity of all replacement formed manure storage structures

1 shall not exceed the capacity required to store all manure from
2 the animal feeding operation on the effective date of this Act.

3 *b.* The construction of a formed egg washwater storage
4 structure that is constructed to replace an unformed egg
5 washwater storage structure. The formed egg washwater storage
6 structure must be constructed in a manner that complies with
7 upgraded construction design standards necessary to ensure that
8 the structure does not pollute groundwater sources. However,
9 the capacity of all replacement formed egg washwater storage
10 structures shall not exceed the capacity required to store
11 all egg washwater from the animal feeding operation on the
12 effective date of this Act.

13 3. *a.* If an unformed manure storage structure was
14 constructed on karst terrain or terrain that drains into a
15 known sinkhole prior to the effective date of this Act, there
16 must be a twenty-five-foot vertical separation distance between
17 the bottom of the unformed manure storage structure and any
18 underlying limestone, dolomite, or other soluble rock. The
19 unformed manure storage structure must have been constructed
20 according to construction design standards necessary to ensure
21 that the structure does not pollute groundwater sources.

22 *b.* A formed manure storage structure constructed on karst
23 terrain or terrain that drains into a known sinkhole prior to
24 the effective date of this Act, must have been constructed
25 according to construction design standards necessary to ensure
26 that the structure does not pollute groundwater sources.

27 Sec. 22. NEW SECTION. **459.309B Sinkholes.**

28 If the confinement feeding operation structure is to be
29 constructed or expanded within an area of the state which the
30 department classifies as prone to the formation of sinkholes, a
31 statement by a qualified geologist verifying that there is a
32 low probability that a sinkhole if formed would exist within
33 the applicable separation distance between the sinkhole and
34 confinement feeding operation structure as otherwise required
35 pursuant section 459.310.

1 Sec. 23. Section 459.311D, Code 2019, is amended by striking
2 the section and inserting in lieu thereof the following:

3 **459.311D Stockpiling dry manure on karst terrain or terrain**
4 **that drains into a known sinkhole.**

5 1. Except as provided in this section, a person shall not
6 stockpile dry manure on karst terrain or in an area that drains
7 into a known sinkhole.

8 2. A person who stockpiled dry manure on karst terrain
9 or in an area that drains into a known sinkhole prior to the
10 effective date of this Act may continue to stockpile the dry
11 manure at the same location so long as the person complies with
12 all of the following:

13 a. There is a vertical separation distance of at least five
14 feet between the bottom of the stockpile and the underlying
15 limestone, dolomite, or other soluble rock.

16 b. The dry manure is stockpiled in a qualified stockpile
17 structure.

18 c. The person does not expand the volume or weight of dry
19 manure.

20 d. A person shall discontinue stockpiling dry manure at
21 that same location on and after July 1, 2027, unless the
22 person obtains a waiver by the department upon such terms and
23 conditions required by the department. The department shall
24 only grant a waiver if the department is satisfied that the
25 stockpiled dry manure does not pollute groundwater sources.

26 Sec. 24. NEW SECTION. **459.311F Outstanding Iowa waters.**

27 A person shall not construct or expand a confinement feeding
28 operation structure in a watershed with a hydrologic unit
29 code scale 12 or smaller, if the watershed constitutes an
30 outstanding state resource, including waters of exceptional
31 recreational or ecological significance, as designated by the
32 department.

33 Sec. 25. Section 459.312, subsection 1, paragraph a,
34 subparagraph (1), Code 2019, is amended by striking the
35 subparagraph.

1 Sec. 26. Section 459.312, Code 2019, is amended by adding
2 the following new subsection:

3 NEW SUBSECTION. 6A. The department shall not approve an
4 original manure management plan or an updated manure management
5 plan, unless it is accompanied with evidence that a surety bond
6 has been furnished to the department by a surety. However, the
7 department may approve an original manure management plan on
8 the condition that the bond be furnished prior to the date that
9 manure is stored in the manure storage structure described in
10 the manure management plan.

11 a. The surety must be a business entity organized or formed
12 in this state or otherwise authorized to do business in this
13 state as a surety company and be approved by the department
14 according to criteria established by the department. The bond
15 shall be in the amount of ten million dollars.

16 b. The bond shall run to the state, and guarantee payment
17 to the state of costs directly attributable to a violation of
18 section 459.311 that causes a discharge of manure from a manure
19 storage structure as described in the manure management plan.
20 The costs shall be limited to any of the following:

21 (1) The reimbursement of moneys expended by the state, a
22 political subdivision, or an agent of the state or a political
23 subdivision, for reasonable costs of providing for containment
24 or cleanup. The reimbursement may cover costs associated with
25 cleaning up the confinement feeding operation and remediating
26 contamination which originates from the confinement feeding
27 operation, pursuant to sections 455B.381 through 455B.399.

28 (2) The restoration of wild animal populations or habitat,
29 to the extent that any payment received under the bond is not
30 duplicative of a restitution payment received by the state
31 under section 481A.151.

32 (3) Payment of a judgment award recovered by a person in a
33 civil action for actual property damages, including reasonable
34 attorney's fees. The bond shall be open to successive judgment
35 awards caused by the same violation.

1 *c.* The total and aggregate liability of the surety for all
2 claims by the state arising from the violation shall be limited
3 to the face of the bond.

4 *d.* The bond shall not expire until sixty days after
5 expiration of the manure management plan. The surety shall
6 not cancel the bond without providing for at least forty-five
7 days' notice by certified mail to the department and the
8 owner required to submit the manure management plan. When
9 the department receives a notice of cancellation, and a bond
10 is still required, the department shall automatically suspend
11 the manure management plan if the department does not receive
12 a replacement bond within thirty days of the delivery of the
13 notice of cancellation. If a replacement bond is not furnished
14 to the department within ten days following the suspension, the
15 department shall automatically revoke the manure management
16 plan. In addition, the department shall disapprove all pending
17 permit applications for the construction of a confinement
18 feeding operation structure filed with the department by the
19 owner as provided in section 459.303.

20 Sec. 27. Section 459.312, subsection 10, Code 2019, is
21 amended by adding the following new paragraph:

22 NEW PARAGRAPH. *0a.* The average number of animal units
23 maintained at the confinement feeding operation during a period
24 established by the department.

25 Sec. 28. Section 459.319, subsection 2, Code 2019, is
26 amended by adding the following new paragraph:

27 NEW PARAGRAPH. *c.* A person who stockpiles dry manure on
28 karst terrain or in an area that drains into a known sinkhole.

29 Sec. 29. Section 459A.102, subsection 28, Code 2019, is
30 amended to read as follows:

31 28. "*Open feedlot operation*" or "*operation*" means an
32 ~~unroofed or partially roofed~~ animal feeding operation if crop,
33 vegetation, or forage growth or residue cover is not maintained
34 as part of the animal feeding operation ~~during the period that~~
35 ~~animals are confined in the animal feeding operation and the~~

1 animals have unrestricted access to any structure.

2 Sec. 30. Section 459A.102, Code 2019, is amended by adding
3 the following new subsection:

4 NEW SUBSECTION. 31A. "*Qualified stockpile structure*" means
5 the same as defined in section 459.102.

6 Sec. 31. NEW SECTION. **459A.106 Open feedlot operations and**
7 **small animal truck wash facilities — impaired waters.**

8 1. As used in this section, unless the context otherwise
9 requires:

10 a. "*Section 303(d) list*" means the same as defined in
11 section 455B.171.

12 b. "*Subwatershed*" means the same as defined in section
13 466B.2.

14 2. a. A person shall not construct, including expand, a
15 structure, if the structure would be located in a subwatershed
16 that drains into a water body or water segment that has been
17 placed on the department's section 303(d) list, regardless of
18 whether a total maximum daily load for that water body or water
19 segment has been developed.

20 b. The department shall not file or approve an application
21 for a permit to construct, including expand, a structure, if
22 the person could not construct the structure under paragraph
23 "a".

24 3. Subsection 2 does not apply to prevent a person from
25 constructing, including expanding, a structure as otherwise
26 provided in this subchapter, if the structure is located in a
27 subwatershed that drains into a water body or water segment,
28 and the department does all of the following:

29 a. Removes the water body or water segment from the section
30 303(d) list.

31 b. Determines that the water body or water segment is
32 classified for a primary contact recreational use as provided
33 in 567 IAC 61.3.

34 4. Nothing in this section shall prohibit a person from
35 completing construction, including expansion, of a structure,

1 if prior to the effective date of this Act, the person has
2 begun construction, including expansion, of the structure as
3 otherwise allowed under this chapter.

4 Sec. 32. NEW SECTION. **459A.107 Outstanding Iowa waters.**

5 A person shall not construct or expand a structure in a
6 watershed with a hydrologic unit code scale 12 or smaller,
7 if the watershed constitutes an outstanding state resource,
8 including waters of exceptional recreational or ecological
9 significance, as designated by the department.

10 Sec. 33. NEW SECTION. **459A.107B Sinkholes.**

11 If an open feedlot operation structure is to be constructed
12 or expanded within an area of the state which the department
13 classifies as prone to the formation of sinkholes, a statement
14 by a qualified geologist verifying that there is a low
15 probability that a sinkhole if formed would exist within
16 the applicable separation distance between the sinkhole and
17 structure as otherwise required pursuant to section 459.310.

18 Sec. 34. Section 459A.205, subsection 8, paragraph e,
19 subparagraph (2), Code 2019, is amended to read as follows:

20 (2) If ~~an~~ a formed animal truck wash effluent structure
21 is to be constructed on karst terrain as provided in section
22 459A.406A, the engineering report must establish that the
23 construction complies with the requirements of section
24 459A.404.

25 Sec. 35. Section 459A.403, Code 2019, is amended by adding
26 the following new subsection:

27 NEW SUBSECTION. 3. A person shall not stockpile solids on
28 karst terrain or in an area that drains into a known sinkhole
29 except as provided in section 459A.403A.

30 Sec. 36. NEW SECTION. **459A.403A Stockpiling solids on karst**
31 **terrain or terrain that drains into a known sinkhole — open**
32 **feedlots and animal truck wash facility.**

33 1. Except as provided in this section, a person shall not
34 stockpile solids on karst terrain or in an area that drains
35 into a known sinkhole.

1 2. A person who stockpiled solids on karst terrain or in an
2 area that drains into a known sinkhole prior to the effective
3 date of this Act may continue to stockpile the solids at the
4 same location so long as the person complies with all of the
5 following:

6 a. There is a vertical separation distance of at least five
7 feet between the bottom of the stockpile and any underlying
8 limestone, dolomite, or other soluble rock.

9 b. The solids are stockpiled in a qualified stockpile
10 structure.

11 c. The person does not expand the volume or weight of
12 stockpiled solids.

13 d. A person stockpiling solids shall remove the solids and
14 apply them in accordance with the provisions of chapter 459,
15 including section 459.311 within six months after the solids
16 are first stockpiled. A person shall discontinue stockpiling
17 the solids at that same location on and after July 1, 2027,
18 unless the person obtains a waiver by the department upon
19 such terms and conditions required by the department. The
20 department shall only grant a waiver if the department is
21 satisfied that the stockpiled solids do not pollute groundwater
22 sources.

23 Sec. 37. Section 459A.404, subsection 5, Code 2019, is
24 amended by striking the subsection.

25 Sec. 38. NEW SECTION. **459A.406 Construction and expansion**
26 **of open feedlot operation structures — karst terrain or terrain**
27 **that drains into a known sinkhole.**

28 1. A person shall not construct or expand an open feedlot
29 operation structure on karst terrain or terrain that drains
30 into a known sinkhole.

31 2. If an open feedlot operation structure was constructed
32 on karst terrain or terrain that drains into a known sinkhole
33 prior to the effective date of this Act, there must be a
34 twenty-five-foot vertical separation distance between the
35 bottom of the open feedlot operation structure and any

1 underlying limestone, dolomite, or other soluble rock. The
2 open feedlot operation structure must have been constructed
3 according to construction design standards necessary to ensure
4 the structure does not pollute groundwater sources.

5 Sec. 39. NEW SECTION. **459A.406A Construction and expansion**
6 **of animal truck wash effluent structures — karst terrain or**
7 **terrain that drains into a known sinkhole.**

8 1. A person shall not construct or expand an animal truck
9 wash effluent structure on karst terrain on and after the
10 effective date of this Act.

11 2. Subsection 1 does not apply to the construction
12 of a formed animal truck wash effluent structure that is
13 constructed to replace an unformed animal truck wash effluent
14 structure on karst terrain or terrain that drains into a known
15 sinkhole. The formed animal truck wash effluent structure
16 must be constructed in a manner that complies with upgraded
17 construction design standards necessary to ensure that the
18 structure does not pollute groundwater sources. However, the
19 capacity of all replacement formed animal truck wash effluent
20 structures shall not exceed the capacity required to store all
21 animal truck wash effluent from the animal truck wash facility
22 on the effective date of this Act.

23 3. *a.* If an unformed animal truck wash effluent structure
24 was constructed on karst terrain or terrain that drains into a
25 known sinkhole prior to the effective date of this Act, there
26 must be a twenty-five-foot vertical separation distance between
27 the bottom of the unformed animal truck wash effluent structure
28 and any underlying limestone, dolomite, or other soluble rock.
29 The unformed animal truck wash effluent structure must have
30 been constructed according to construction design standards
31 necessary to ensure the structure does not pollute groundwater
32 sources.

33 *b.* A formed animal truck wash effluent structure constructed
34 on karst terrain or terrain that drains into a known sinkhole
35 prior to the effective date of this Act, must have been

1 constructed according to construction design standards
2 necessary to ensure that the structure does not pollute
3 groundwater sources.

4 Sec. 40. Section 459B.201, Code 2019, is amended to read as
5 follows:

6 **459B.201 Construction design standards.**

7 A person constructing a dry bedded confinement feeding
8 operation structure ~~on karst terrain or~~ in an alluvial aquifer
9 area shall comply with all of the following:

10 1. The person must construct the dry bedded confinement
11 feeding operation structure at a location where there is a
12 vertical separation distance of at least five feet between
13 the bottom of the floor of the dry bedded confinement feeding
14 operation structure and the ~~underlying limestone, dolomite, or~~
15 ~~other soluble rock in karst terrain or the~~ underlying sand and
16 gravel aquifer in an alluvial aquifer area.

17 2. The person must construct the dry bedded confinement
18 feeding operation structure with a floor consisting of
19 reinforced concrete at least five inches thick.

20 Sec. 41. NEW SECTION. **459B.203 Karst terrain and terrain**
21 **that drains into a known sinkhole — construction and expansion**
22 **of dry bedded confinement feeding operation structures.**

23 1. A person shall not construct or expand a dry bedded
24 confinement feeding operation structure on karst terrain or
25 terrain that drains into a known sinkhole.

26 2. If a dry bedded confinement feeding operation structure
27 was constructed on karst terrain or terrain that drains into
28 a known sinkhole prior to the effective date of this Act,
29 there must be a five-foot vertical separation distance between
30 the bottom of the dry bedded confinement feeding operation
31 structure and any underlying limestone, dolomite, or other
32 soluble rock. The dry bedded confinement feeding operation
33 structure must have been constructed according to construction
34 design standards necessary to ensure the structure does not
35 pollute groundwater sources.

1 Sec. 42. Section 459B.307, subsection 1, paragraph e,
2 unnumbered paragraph 1, Code 2019, is amended to read as
3 follows:

4 The person shall not stockpile dry bedded manure ~~on karst~~
5 ~~terrain or~~ in an alluvial aquifer area unless the person
6 complies with all of the following:

7 Sec. 43. Section 459B.307, Code 2019, is amended by adding
8 the following new subsection:

9 NEW SUBSECTION. 3. A person shall only stockpile dry bedded
10 manure on karst terrain or terrain that drains into a known
11 sinkhole as provided in section 459B.307A.

12 Sec. 44. NEW SECTION. 459B.307A Stockpiling dry bedded
13 manure on karst terrain or terrain that drains into a known
14 sinkhole.

15 1. Except as provided in this section, a person shall not
16 stockpile dry bedded manure on karst terrain or in an area that
17 drains into a known sinkhole.

18 2. A person who stockpiled dry bedded manure on karst
19 terrain or in an area that drains into a known sinkhole prior
20 to the effective date of this Act may continue to stockpile the
21 dry bedded manure at the same location so long as the person
22 complies with all of the following:

23 a. There is a vertical separation distance of at least five
24 feet between the bottom of the stockpile and any underlying
25 limestone, dolomite, or other soluble rock.

26 b. The dry bedded manure is stockpiled in a qualified
27 stockpile structure.

28 c. The person does not expand the volume or weight of
29 stockpiled dry bedded manure.

30 d. A person stockpiling dry bedded manure shall remove
31 the dry bedded manure and apply it in accordance with the
32 provisions of chapter 459, including section 459.311 within
33 six months after the dry bedded manure is first stockpiled.
34 A person shall discontinue stockpiling dry bedded manure at
35 that same location on and after July 1, 2027, unless the

1 person obtains a waiver by the department upon such terms and
2 conditions required by the department. The department shall
3 only grant a waiver if the department is satisfied that the
4 stockpiled dry bedded manure does not pollute groundwater
5 sources.

6 Sec. 45. Section 481A.151, subsection 1, Code 2019, is
7 amended to read as follows:

8 1. a. A person who is liable for polluting a water of this
9 state in violation of state law, including [this chapter](#), shall
10 also be liable to pay restitution to the department for injury
11 caused to a wild animal by the pollution. The amount of the
12 restitution shall also include the department's administrative
13 costs for investigating the incident.

14 b. The administration of [this section](#) shall not result in
15 a duplication of damages collected by the department under
16 section 455B.392, subsection 1, paragraph "a", subparagraph
17 (3), or section 459.312, subsection 6A.

18 Sec. 46. REPEAL. Sections 459.304 and 459.305, Code 2019,
19 are repealed.

20 Sec. 47. EFFECTIVE DATE. This Act, being deemed of
21 immediate importance, takes effect upon enactment, other than
22 the section of this Act amending section 427.1, which takes
23 effect January 1, 2020.

24 Sec. 48. APPLICABILITY. Section 427.1, as amended in this
25 Act, applies to tax years beginning on or after January 1,
26 2020.

27 EXPLANATION

28 The inclusion of this explanation does not constitute agreement with
29 the explanation's substance by the members of the general assembly.

30 GENERAL. This bill amends a number of provisions relating
31 to animal feeding operations, including confinement feeding
32 operations under Code chapter 459 ("Animal Agriculture
33 Compliance Act"), open feed lot operations and animal truck
34 wash facilities under Code chapter 459A ("Animal Agriculture
35 Compliance Act for Open Feedlot Operations and Animal Truck

1 Wash Facilities"), and Code chapter 459B ("Animal Agriculture
2 Compliance Act for Dry Bedded Confinement Feeding Operations").

3 CONFINEMENT FEEDING OPERATIONS — COUNTY ZONING. The
4 bill provides that a county may adopt a confinement feeding
5 operations siting ordinance which allows a county board of
6 supervisors (board) to approve the site where the construction
7 of a structure associated with a confinement feeding operation
8 (CAFO) is to occur. The board may place conditions on site
9 approval if the conditions relate to the construction or
10 operation of the confinement feeding operation or to manure
11 application.

12 The bill provides that the county may adopt the ordinance
13 notwithstanding provisions in Code section 331.304A which
14 prohibits a county from adopting legislation that regulates
15 animal agriculture and Code section 335.2 which prohibits a
16 county from adopting an ordinance that provides for the zoning
17 of farm structures.

18 CAFOs — PROPERTY TAXATION. The bill amends Code section
19 427.1, which provides a number of exemptions from property
20 taxation. The Code section includes an exemption for certain
21 types of pollution-control and recycling property as certified
22 by the department of natural resources. The bill limits this
23 tax exemption for such property that is related to the care
24 and feeding of livestock by requiring that the property used
25 for the care and feeding of livestock must be eligible for a
26 family farm tax credit under Code chapter 425A. The bill also
27 provides that the tax credit still available is limited to the
28 first \$100,000 of the property's assessed value.

29 CAFOs — DEFINITION. The bill provides that a CAFO includes
30 any partially roofed area which animals are confined.

31 CAFOs — CONTRACT PRODUCTION. The bill amends provisions
32 that require the department of natural resources (DNR) to
33 approve or disapprove an application for a permit to construct
34 a confinement feeding operation structure (structure) which
35 is part of an existing or proposed CAFO. The bill provides

1 that the application must state whether the CAFO is or could
2 become a contract livestock facility. It also provides that
3 the statement must be included in the notice of a public
4 hearing conducted by the board in the county where the proposed
5 structure is to be constructed.

6 Code chapter 202 regulates the relationship between a
7 contractor and a contract producer of a commodity, including
8 livestock, and the Code chapter includes a number of defined
9 terms. A contractor is a person who enters into an agreement
10 with an agricultural producer to raise livestock on property
11 held by the agricultural producer (contract livestock
12 facility). The agricultural producer is referred to as a
13 contract producer. The contract is referred to as a production
14 contract.

15 CAFOs — REPORTING. The bill provides that for purposes
16 of administering and enforcing Code chapter 459, subchapter
17 II, relating to air quality and Code chapter 459, subchapter
18 III, relating to water quality, DNR may require that the owner
19 or operator of a CAFO submit one or more animals confined
20 reports that contain information regarding the number of
21 animals maintained at the operation in a manner and during
22 a time period that DNR determines is relevant. The report
23 must present the information in a manner that calculates the
24 number of animals maintained as animal units (AU). The bill
25 authorizes DNR to require a report as part of a construction
26 permit to expand a structure. The owner or operator of the
27 CAFO must also report to DNR the number of animals maintained
28 as part of the operation converted to animal units. A CAFO's
29 size is determined by calculating its AU capacity. A special
30 equivalency factor is assigned for each classification of
31 confined animal. For example, each butcher or breeding swine
32 weighing more than 55 pounds has an equivalency factor of 0.4
33 AUs. The permit requirement threshold of 1,000 AUs means that
34 a permit would be required if after construction the CAFO would
35 have an AU capacity of 2,500 of such swine ($1,000 \div 0.4 =$

1 2,500).

2 CAFOs — SURETY BONDS. The bill addresses two documents
3 filed by the owner of a CAFO with DNR when it administers water
4 quality regulations: (1) an application for a construction
5 permit (permit) issued by DNR that authorizes the construction,
6 including expansion, of a structure and a manure management
7 plan (MMP) governing the storage and application of manure
8 originating from the operation.

9 The bill provides that DNR cannot approve an MMP unless the
10 owner furnishes a surety bond for \$10 million for the purpose
11 of paying costs resulting from the discharge of manure from
12 the owner's operation. Moneys payable under the bond must
13 be used in cases in which the discharge has caused property
14 damage. The moneys must be used to: (1) reimburse the state or
15 a political subdivision, or an agent of the state or political
16 subdivision, for costs associated with containment or cleanup;
17 (2) the restoration of wild animal populations or habitat; and
18 (3) the payment of a judgment award recovered by a plaintiff
19 in a civil action. The bill provides for the expiration or
20 cancellation of the bond. DNR is authorized to suspend or
21 revoke an MMP if a replacement bond is not filed. The bill
22 also provides that DNR is prohibited from issuing a permit to
23 the owner authorizing the construction of any structure if a
24 bond covering an operation has expired, been canceled, been
25 suspended, or been revoked.

26 CAFOs — PERMITS. The bill requires a board to send a
27 notice to certain landowners that a permit application has been
28 filed with DNR proposing to construct a structure which is
29 part of a proposed or existing CAFO. The notice must be sent
30 by certified or ordinary mail to each neighbor holding legal
31 title to land located within two miles from the location of
32 the proposed construction site. An application must include
33 a brief summary of information regarding the proposal, which
34 must at least state: (1) the identity of the applicant, (2)
35 the type and numbers of animals to be confined at the CAFO if

1 each proposed structure were constructed, and (3) the location,
 2 type, and size of each structure proposed to be constructed.
 3 The notice must include the summary and may also state time and
 4 place of a public hearing regarding the application conducted
 5 by the board. The bill provides that the same information must
 6 be included in the notice of a public hearing.

7 CAFOs — MASTER MATRIX. The bill eliminates provisions
 8 that require the use of a master matrix as part of the process
 9 to approve or disapprove a permit for the construction or
 10 expansion of a structure associated with a CAFO. The master
 11 matrix is a formula designed to produce a statistically
 12 verifiable basis for determining whether to approve or
 13 disapprove an application for the construction of a structure.
 14 The master matrix measures impacts to air, water, and the
 15 community (567 IAC ch. 65, Appendix C).

16 CAFOs — STRUCTURAL FAILURES. The bill requires the owner
 17 or operator of a CAFO to notify DNR of any actual or probable
 18 immediate structural failure from an associated structure. The
 19 failure may be the result of either the design or construction
 20 of the structure. The determination of a probable immediate
 21 structural failure must be based on factors established by DNR
 22 which may include an observation by the owner or operator or
 23 a report submitted to the owner or operator by a professional
 24 engineer. DNR is required to adopt rules that provide for
 25 notice procedures which may take into account factors that
 26 quantify the level of threat to water quality resulting from a
 27 discharge or an injury to or death of an animal maintained in
 28 an associated confinement building.

29 OPEN FEEDLOT OPERATIONS — DEFINITION. The bill revises the
 30 definition of an open feedlot operation (feedlot) to include
 31 any place whether partially roofed or not where animals are
 32 maintained without crop, vegetation, or forage growth or
 33 residue cover.

34 CAFOs, FEEDLOTS, AND ANIMAL TRUCK WASH FACILITIES —
 35 IMPAIRED WATERS. The bill prohibits the construction of a

1 structure associated with a CAFO, or animal truck wash facility
2 (facility), if the structure is located in a subwatershed
3 that includes a water body or water segment that has been
4 placed on a list of impaired waters. The prohibition would
5 no longer apply once the water was removed from the list and
6 DNR determined that the water meets the state surface water
7 classification for primary contact recreational use.

8 DNR's list of impaired waters is approved by EPA according
9 to federal and state requirements (33 U.S.C. §1313 and Code
10 sections 455B.194 and 455B.195). DNR is also required to
11 develop a plan for restoring the impaired waters, including by
12 identifying its total maximum daily loads; commonly referred to
13 as TMDL that calculates the amount of contaminants that a water
14 body may receive and still meet federal water quality standards
15 (40 C.F.R. §130.7(b)(4)). Based on these measurements, the
16 department classifies surface waters for a number of designated
17 uses including primary contact recreational use which means
18 that the water is considered safe for uses that may result in a
19 person's prolonged and direct contact with the water, including
20 by ingestion while swimming (33 U.S.C. §1251(a)(2) and 567 IAC
21 61.3).

22 CAFOs AND FEEDLOTS — OUTSTANDING IOWA WATERS. The bill
23 prohibits a person from constructing or expanding a structure
24 associated with a CAFO or feedlot within a watershed having
25 a hydrologic unit code scale 12 or smaller, if the watershed
26 constitutes an outstanding state resource as designated by the
27 department.

28 CAFOs AND FEEDLOTS — SINKHOLES. The bill prohibits the
29 construction of a structure associated with a CAFO or feedlot
30 if DNR has classified the area of construction as prone to the
31 formation of sinkholes. In that case, the owner or operator
32 of the CAFO or feedlot must file a statement with DNR. The
33 statement must be signed by a qualified geologist verifying
34 that there is a low probability that a sinkhole if formed would
35 exist within the applicable separation distance between the

1 sinkhole and structure.

2 CAFOs, FEEDLOTS, AND DRY BEDDED CONFINEMENT FEEDING
3 OPERATIONS — KARST TERRAIN AND KNOWN SINKHOLES. The bill
4 prohibits the construction or expansion of a structure
5 associated with a feedlot facility or dry bedded confinement
6 feeding operation on karst terrain or terrain that drains
7 into a known sinkhole. The bill prohibits the stockpiling of
8 certain dry or solid manure on such terrain. The bill also
9 regulates the use of structures or stockpiles existing on
10 such terrain prior to the bill's effective date. The bill
11 retains or expands vertical separation distances required
12 between the bottom of a structure or stockpile and any
13 underlying limestone, dolomite, or other soluble rock. The
14 bill requires that a stockpile located on the terrain be kept
15 in a qualified stockpile structure which is a building or other
16 roofed structure. It provides for the removal of manure or
17 solids from the stockpile. It also requires that an existing
18 stockpile be discontinued on July 1, 2027, unless DNR grants a
19 waiver.

20 Stockpiling refers to that part of manure or effluent
21 produced by agricultural animals which is "dry" or "solid",
22 meaning that it does not flow perceptibly under pressure and is
23 not capable of being transported through a mechanical pumping
24 device designed to move a liquid.

25 Karst terrain is characterized by the presence of bedrock
26 composed of limestone or dolomite near the ground surface which
27 dissolves easily. Such terrain often includes sinkholes which
28 are a depression or hole in the ground caused by a collapse of
29 the ground's surface layer.

30 APPLICABLE CIVIL PENALTIES. Compliance with a statutory
31 regulation under the Code chapter includes compliance with
32 a rule adopted by DNR (Code section 459.103). Code section
33 459.602 provides for civil penalties that may be assessed for
34 violations of Code chapter 459, subchapter II (air quality
35 regulations). A violator is subject to Code section 455B.109,

1 which provides for the administrative assessment of civil
2 penalties of up to \$10,000.

3 Each of the three Code chapters provide for the imposition
4 and assessment of civil penalties for violations involving
5 water quality. A person who violates a water quality provision
6 is subject to an administratively assessed civil penalty of not
7 more than \$10,000 (Code sections 455B.109, 459.603, 459A.502,
8 and 459B.402), or a judicially assessed amount of not more than
9 \$5,000 per each day of the violation (Code sections 455B.191
10 and 459.603).

11 EFFECTIVE AND APPLICABILITY DATES. The bill takes effect
12 upon enactment, except for one provision. The provision
13 eliminating the property tax exemption takes effect on January
14 1, 2020, and applies to tax years beginning on and after that
15 date.